

AMENDED IN SENATE APRIL 21, 2014

**SENATE BILL**

**No. 1461**

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**Introduced by Committee on Public Safety (Senators Hancock  
(Chair), Anderson, De León, Knight, Liu, Mitchell, and Steinberg)**

March 3, 2014

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An act to amend Section 25401 of the Corporations Code, to amend Section 6306 of the Family Code, to amend Section 12002 of the Fish and Game Code, to amend Section 15155 of the Government Code, to amend Section 655.7 of the Harbors and Navigation Code, to amend Sections 1796.58, 11352, and 11379 of the Health and Safety Code, to amend Sections 19.8, 273.75, 290.012, 311.11, 814, 4902, 11102.2, and 31000 of the Penal Code, and to amend ~~Section~~ *Sections 213.5, 602, and 1401* of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1461, as amended, Committee on Public Safety. Public safety.

(1) Existing law makes it a misdemeanor, punishable by a fine of not more than \$2,000, imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, to fail to visit and remove all animals from traps at least once daily. Existing law makes it a misdemeanor, punishable by a fine of \$1,000, imprisonment in the county jail for not more than 6 months, or by both that fine and imprisonment, to set or maintain traps that do not bear a number or other identifying mark, as specified.

This bill would instead provide that setting or maintaining traps that do not bear a number or other identifying mark, as specified, is punishable by a fine of not more than \$2,000, imprisonment in the county jail for not more than one year, or by both that fine and

imprisonment, and that failing to visit and remove all animals from traps at least once daily is punishable by a fine of \$1,000, imprisonment in the county jail for not more than 6 months, or by both that fine and imprisonment.

(2) Existing law requires the Department of Justice to maintain a statewide telecommunications system of communication for the use of law enforcement agencies. The system is under the direction of the Attorney General. Existing law requires the Attorney General to appoint an advisory committee on the California Law Enforcement Telecommunications System to advise and assist in the management of the system. The committee serves at the pleasure of the Attorney General, without compensation, except for reimbursement of necessary travel expenses. Existing law requires the committee to consist of representatives from specified organizations, including from the Department of General Services.

This bill would change the membership of the committee by substituting the representative from the Department of General Services with a representative from the Office of Emergency Services.

(3) Existing law regulates the operation of personal watercraft, as defined, and imposes various requirements for the manufacture and safe operation of a personal watercraft. Existing law prohibits a person from operating a personal watercraft at any time between the hours from sunset to sunrise. A violation of this provision is an infraction.

This bill would exempt marine patrols, harbor police, or emergency personnel in the performance of their duties from that prohibition.

(4) Existing law categorizes controlled substances into 5 schedules. Existing law, subject to exceptions, makes it an offense to, among other things, transport specified Schedule I and Schedule II controlled substances, or any Schedule III, IV, or V controlled substance which is a narcotic drug, unless upon written prescription, as specified. Existing law, subject to exceptions, makes it an offense to, among other things, transport specified Schedule III, IV, or V controlled substances which are not a narcotic drug, unless upon written prescription, as specified. Existing law provides that these provisions do not preclude or limit the prosecution of an individual for aiding and abetting the commission of, or conspiring to commit, those prohibited acts.

This bill would additionally provide that those provisions do not preclude or limit the prosecution of an individual for acting as an accessory to those prohibited acts.

(5) Existing law requires, commencing January 1, 2011, the Department of Justice to establish, implement, and maintain a confirmation program to process fingerprint-based criminal record background clearances on individuals designated by agencies as custodians of records. Existing law requires agencies to designate custodians of records, and to annually notify the department as to the identity of the agencies' custodians of records.

This bill would delete that annual notification requirement.

(6) *Under existing law and until January 1, 2016, California is a party to an interstate compact for juveniles. That compact requires California, among other things, to appoint a commissioner to the Interstate Commission for Juveniles and to create a state council for interstate juvenile supervision. Existing law makes the executive director of the Correction Standards Authority the compact administrator.*

*This bill, instead, would make the Secretary of the Department of Corrections and Rehabilitation the compact administrator.*

~~(6)~~

(7) This bill would make other technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25401 of the Corporations Code is  
2 amended to read:

3 25401. It is unlawful for any person, in connection with the  
4 offer, sale, or purchase of a security, directly or indirectly, to do  
5 any of the following:

6 (a) Employ a device, scheme, or artifice to defraud.

7 (b) Make an untrue statement of material fact or omit to state  
8 a material fact necessary to make the statements made, in light of  
9 the circumstances under which they were made, not misleading.

10 (c) Engage in an act, practice, or course of business that operates  
11 or would operate as a fraud or deceit upon another person.

12 SEC. 2. Section 6306 of the Family Code is amended to read:

13 6306. (a) Prior to a hearing on the issuance or denial of an  
14 order under this part, the court shall ensure that a search is or has  
15 been conducted to determine if the subject of the proposed order  
16 has any prior criminal conviction for a violent felony specified in  
17 Section 667.5 of the Penal Code or a serious felony specified in

1 Section 1192.7 of the Penal Code; has any misdemeanor conviction  
2 involving domestic violence, weapons, or other violence; has any  
3 outstanding warrant; is currently on parole or probation; has a  
4 registered firearm; or has any prior restraining order or any  
5 violation of a prior restraining order. The search shall be conducted  
6 of all records and databases readily available and reasonably  
7 accessible to the court, including, but not limited to, the following:

8 (1) The California Sex and Arson Registry (CSAR).

9 (2) The Supervised Release File.

10 (3) State summary criminal history information maintained by  
11 the Department of Justice pursuant to Section 11105 of the Penal  
12 Code.

13 (4) The Federal Bureau of Investigation's nationwide database.

14 (5) Locally maintained criminal history records or databases.

15 However, a record or database need not be searched if the  
16 information available in that record or database can be obtained  
17 as a result of a search conducted in another record or database.

18 (b) (1) Prior to deciding whether to issue an order under this  
19 part or when determining appropriate temporary custody and  
20 visitation orders, the court shall consider the following information  
21 obtained pursuant to a search conducted under subdivision (a):  
22 any conviction for a violent felony specified in Section 667.5 of  
23 the Penal Code or a serious felony specified in Section 1192.7 of  
24 the Penal Code; any misdemeanor conviction involving domestic  
25 violence, weapons, or other violence; any outstanding warrant;  
26 parole or probation status; any prior restraining order; and any  
27 violation of a prior restraining order.

28 (2) Information obtained as a result of the search that does not  
29 involve a conviction described in this subdivision shall not be  
30 considered by the court in making a determination regarding the  
31 issuance of an order pursuant to this part. That information shall  
32 be destroyed and shall not become part of the public file in this or  
33 any other civil proceeding.

34 (c) (1) After issuing its ruling, the court shall advise the parties  
35 that they may request the information described in subdivision (b)  
36 upon which the court relied. The court shall admonish the party  
37 seeking the proposed order that it is unlawful, pursuant to Sections  
38 11142 and 13303 of the Penal Code, to willfully release the  
39 information, except as authorized by law.

1 (2) Upon the request of either party to obtain the information  
2 described in subdivision (b) upon which the court relied, the court  
3 shall release the information to the parties or, upon either party's  
4 request, to his or her attorney in that proceeding.

5 (3) The party seeking the proposed order may release the  
6 information to his or her counsel, court personnel, and  
7 court-appointed mediators for the purpose of seeking judicial  
8 review of the court's order or for purposes of court proceedings  
9 under Section 213.5 of the Welfare and Institutions Code.

10 (d) Any information obtained as a result of the search conducted  
11 pursuant to subdivision (a) and relied upon by the court shall be  
12 maintained in a confidential case file and shall not become part of  
13 the public file in the proceeding or any other civil proceeding.  
14 However, the contents of the confidential case file shall be  
15 disclosed to the court-appointed mediator assigned to the case or  
16 to a child custody evaluator appointed by the court pursuant to  
17 Section 3111 of the Family Code or Section 730 of the Evidence  
18 Code. All court-appointed mediators and child custody evaluators  
19 appointed or contracted by the court pursuant to Section 3111 of  
20 the Family Code or Section 730 of the Evidence Code who may  
21 receive information from the search conducted pursuant to  
22 subdivision (a) shall be subject to, and shall comply with, the  
23 California Law Enforcement Telecommunications System policies,  
24 practices, and procedures adopted pursuant to Section 15160 of  
25 the Government Code.

26 (e) If the results of the search conducted pursuant to subdivision  
27 (a) indicate that an outstanding warrant exists against the subject  
28 of the order, the court shall order the clerk of the court to  
29 immediately notify, by the most effective means available,  
30 appropriate law enforcement officials of the issuance and contents  
31 of any protective order and of any other information obtained  
32 through the search that the court determines is appropriate. The  
33 law enforcement officials so notified shall take all actions necessary  
34 to execute any outstanding warrants or any other actions, with  
35 respect to the restrained person, as appropriate and as soon as  
36 practicable.

37 (f) If the results of the search conducted pursuant to subdivision  
38 (a) indicate that the subject of the order is currently on parole or  
39 probation, the court shall order the clerk of the court to immediately  
40 notify, by the most effective means available, the appropriate parole

1 or probation officer of the issuance and contents of any protective  
2 order issued by the court and of any other information obtained  
3 through the search that the court determines is appropriate. That  
4 officer shall take all actions necessary to revoke any parole or  
5 probation, or any other actions, with respect to the restrained  
6 person, as appropriate and as soon as practicable.

7 (g) Nothing in this section shall delay the granting of an  
8 application for an order that may otherwise be granted without the  
9 information resulting from the database search. If the court finds  
10 that a protective order under this part should be granted on the  
11 basis of the affidavit presented with the petition, the court shall  
12 issue the protective order and shall then ensure that a search is  
13 conducted pursuant to subdivision (a) prior to the hearing.

14 SEC. 3. Section 12002 of the Fish and Game Code is amended  
15 to read:

16 12002. (a) Unless otherwise provided, the punishment for a  
17 violation of this code that is a misdemeanor is a fine of not more  
18 than one thousand dollars (\$1,000), imprisonment in the county  
19 jail for not more than six months, or by both that fine and  
20 imprisonment.

21 (b) The punishment for a violation of any of the following  
22 provisions is a fine of not more than two thousand dollars (\$2,000),  
23 imprisonment in the county jail for not more than one year, or both  
24 the fine and imprisonment:

25 (1) Section 1059.

26 (2) Subdivision (c) of Section 4004.

27 (3) Section 4600.

28 (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.

29 (5) A first violation of Section 8670.

30 (6) Section 10500.

31 (7) Unless a greater punishment is otherwise provided, a  
32 violation subject to subdivision (a) of Section 12003.1.

33 (c) Except as specified in Sections 12001 and 12010, the  
34 punishment for violation of Section 3503, 3503.5, 3513, or 3800  
35 is a fine of not more than five thousand dollars (\$5,000),  
36 imprisonment in the county jail for not more than six months, or  
37 by both that fine and imprisonment.

38 (d) (1) A license, tag, stamp, reservation, permit, or other  
39 entitlement or privilege issued pursuant to this code to a defendant  
40 who fails to appear at a court hearing for a violation of this code,

1 or who fails to pay a fine imposed pursuant to this code, shall be  
2 immediately suspended or revoked. The license, tag, stamp,  
3 reservation, permit, or other entitlement or privilege shall not be  
4 reinstated or renewed, and no other license, tag, stamp, reservation,  
5 permit, or other entitlement or privilege shall be issued to that  
6 person pursuant to this code, until the court proceeding is  
7 completed or the fine is paid.

8 (2) This subdivision does not apply to any violation of Section  
9 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

10 SEC. 4. Section 15155 of the Government Code is amended  
11 to read:

12 15155. The committee shall consist of representatives from  
13 the following organizations:

14 (1) Two representatives from the Peace Officers' Association  
15 of the State of California.

16 (2) One representative from the California State Sheriffs'  
17 Association.

18 (3) One representative from the League of California Cities.

19 (4) One representative from the County Supervisors Association  
20 of California.

21 (5) One representative from the Department of Justice.

22 (6) One representative from the Department of Motor Vehicles.

23 (7) One representative from the Office of Emergency Services.

24 (8) One representative from the California Highway Patrol.

25 (9) One representative from the California Police Chiefs  
26 Association.

27 SEC. 5. Section 655.7 of the Harbors and Navigation Code is  
28 amended to read:

29 655.7. (a) A person operating a personal watercraft equipped  
30 by the manufacturer with a lanyard-type engine cutoff switch shall  
31 attach the lanyard to his or her person, clothing, or personal  
32 flotation device, as appropriate for the specific vessel.

33 (b) No person shall operate a personal watercraft equipped by  
34 the manufacturer with a self-circling device if the self-circling  
35 device or engine throttle has been altered in any way that would  
36 impede or prevent the self-circling device from operating in its  
37 intended manner.

38 (c) Every personal watercraft shall, at all times, be operated in  
39 a reasonable and prudent manner. Maneuvers that unreasonably  
40 or unnecessarily endanger life, limb, or property, including, but

1 not limited to, jumping or attempting to jump the wake of another  
2 vessel within 100 feet of that other vessel, operating the personal  
3 watercraft toward any person or vessel in the water and turning  
4 sharply at close range so as to spray the vessel or person, or  
5 operating at a rate of speed and proximity to another vessel so that  
6 either operator is required to swerve at the last minute to avoid  
7 collision, is unsafe or reckless operation of a vessel.

8 (d) A person shall not operate a personal watercraft at any time  
9 between the hours from sunset to sunrise. This subdivision does  
10 not apply to marine patrol, harbor police, or emergency personnel  
11 in the performance of their duties.

12 (e) This section does not apply to a performer who is engaged  
13 in a professional exhibition or to a person who is participating in  
14 a regatta, race, marine parade, tournament, exhibition, or other  
15 event sanctioned by the United States Coast Guard or authorized  
16 by a permit issued by the local entity having jurisdiction over the  
17 area where the event is held.

18 (f) Any violation of this section is an infraction.

19 SEC. 6. Section 1796.58 of the Health and Safety Code is  
20 amended to read:

21 1796.58. Any person who violates this chapter, or who willfully  
22 or repeatedly violates a rule or regulation promulgated under this  
23 chapter, is guilty of a misdemeanor and, upon conviction thereof,  
24 shall be punished by a fine not to exceed one thousand dollars  
25 (\$1,000) or by imprisonment in a county jail for a period not to  
26 exceed 180 days, or by both that fine and imprisonment.

27 SEC. 7. Section 11352 of the Health and Safety Code is  
28 amended to read:

29 11352. (a) Except as otherwise provided in this division, every  
30 person who transports, imports into this state, sells, furnishes,  
31 administers, or gives away, or offers to transport, import into this  
32 state, sell, furnish, administer, or give away, or attempts to import  
33 into this state or transport (1) any controlled substance specified  
34 in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)  
35 of Section 11054, specified in paragraph (14), (15), or (20) of  
36 subdivision (d) of Section 11054, or specified in subdivision (b)  
37 or (c) of Section 11055, or specified in subdivision (h) of Section  
38 11056, or (2) any controlled substance classified in Schedule III,  
39 IV, or V which is a narcotic drug, unless upon the written  
40 prescription of a physician, dentist, podiatrist, or veterinarian



1 licensed to practice in this state, shall be punished by imprisonment  
2 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
3 three, four, or five years.

4 (b) Notwithstanding the penalty provisions of subdivision (a),  
5 any person who transports any controlled substances specified in  
6 subdivision (a) within this state from one county to another  
7 noncontiguous county shall be punished by imprisonment pursuant  
8 to subdivision (h) of Section 1170 of the Penal Code for three, six,  
9 or nine years.

10 (c) For purposes of this section, “transports” means to transport  
11 for sale.

12 (d) This section does not preclude or limit the prosecution of  
13 an individual for aiding and abetting the commission of, or  
14 conspiring to commit, or acting as an accessory to, any act  
15 prohibited by this section.

16 SEC. 8. Section 11379 of the Health and Safety Code is  
17 amended to read:

18 11379. (a) Except as otherwise provided in subdivision (b)  
19 and in Article 7 (commencing with Section 4211) of Chapter 9 of  
20 Division 2 of the Business and Professions Code, every person  
21 who transports, imports into this state, sells, furnishes, administers,  
22 or gives away, or offers to transport, import into this state, sell,  
23 furnish, administer, or give away, or attempts to import into this  
24 state or transport any controlled substance which is (1) classified  
25 in Schedule III, IV, or V and which is not a narcotic drug, except  
26 subdivision (g) of Section 11056, (2) specified in subdivision (d)  
27 of Section 11054, except paragraphs (13), (14), (15), (20), (21),  
28 (22), and (23) of subdivision (d), (3) specified in paragraph (11)  
29 of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
30 or (3) of subdivision (f) of Section 11054, or (5) specified in  
31 subdivision (d) or (e), except paragraph (3) of subdivision (e), or  
32 specified in subparagraph (A) of paragraph (1) of subdivision (f),  
33 of Section 11055, unless upon the prescription of a physician,  
34 dentist, podiatrist, or veterinarian, licensed to practice in this state,  
35 shall be punished by imprisonment pursuant to subdivision (h) of  
36 Section 1170 of the Penal Code for a period of two, three, or four  
37 years.

38 (b) Notwithstanding the penalty provisions of subdivision (a),  
39 any person who transports any controlled substances specified in  
40 subdivision (a) within this state from one county to another

1 noncontiguous county shall be punished by imprisonment pursuant  
2 to subdivision (h) of Section 1170 of the Penal Code for three, six,  
3 or nine years.

4 (c) For purposes of this section, “transports” means to transport  
5 for sale.

6 (d) Nothing in this section is intended to preclude or limit  
7 prosecution under an aiding and abetting theory, accessory theory,  
8 or a conspiracy theory.

9 SEC. 9. Section 19.8 of the Penal Code is amended to read:

10 19.8. (a) The following offenses are subject to subdivision (d)  
11 of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 602.13,  
12 and 853.7 of this code; subdivision (c) of Section 532b, and  
13 subdivision (o) of Section 602 of this code; subdivision (b) of  
14 Section 25658 and Sections 21672, 25661, and 25662 of the  
15 Business and Professions Code; Section 27204 of the Government  
16 Code; subdivision (c) of Section 23109 and Sections 5201.1, 12500,  
17 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any  
18 other offense that the Legislature makes subject to subdivision (d)  
19 of Section 17. Except where a lesser maximum fine is expressly  
20 provided for a violation of those sections, a violation that is an  
21 infraction is punishable by a fine not exceeding two hundred fifty  
22 dollars (\$250).

23 (b) Except in cases where a different punishment is prescribed,  
24 every offense declared to be an infraction is punishable by a fine  
25 not exceeding two hundred fifty dollars (\$250)

26 (c) Except for the violations enumerated in subdivision (d) of  
27 Section 13202.5 of the Vehicle Code, and Section 14601.1 of the  
28 Vehicle Code based upon failure to appear, a conviction for an  
29 offense made an infraction under subdivision (d) of Section 17 is  
30 not grounds for the suspension, revocation, or denial of a license,  
31 or for the revocation of probation or parole of the person convicted.

32 SEC. 10. Section 273.75 of the Penal Code is amended to read:

33 273.75. (a) On any charge involving acts of domestic violence  
34 as defined in subdivisions (a) and (b) of Section 13700 of the Penal  
35 Code or Sections 6203 and 6211 of the Family Code, the district  
36 attorney or prosecuting city attorney shall perform or cause to be  
37 performed, by accessing the electronic databases enumerated in  
38 subdivision (b), a thorough investigation of the defendant’s history,  
39 including, but not limited to, prior convictions for domestic  
40 violence, other forms of violence or weapons offenses and any

1 current protective or restraining order issued by any civil or  
2 criminal court. This information shall be presented for  
3 consideration by the court (1) when setting bond or when releasing  
4 a defendant on his or her own recognizance at the arraignment, if  
5 the defendant is in custody, (2) upon consideration of any plea  
6 agreement, and (3) when issuing a protective order pursuant to  
7 Section 136.2 of the Penal Code, in accordance with subdivision  
8 (h) of that section. In determining bail or release upon a plea  
9 agreement, the court shall consider the safety of the victim, the  
10 victim's children, and any other person who may be in danger if  
11 the defendant is released.

12 (b) For purposes of this section, the district attorney or  
13 prosecuting city attorney shall search or cause to be searched the  
14 following databases, when readily available and reasonably  
15 accessible:

16 (1) The California Sex and Arson Registry (CSAR).

17 (2) The Supervised Release File.

18 (3) State summary criminal history information maintained by  
19 the Department of Justice pursuant to Section 11105 of the Penal  
20 Code.

21 (4) The Federal Bureau of Investigation's nationwide database.

22 (5) Locally maintained criminal history records or databases.

23 However, a record or database need not be searched if the  
24 information available in that record or database can be obtained  
25 as a result of a search conducted in another record or database.

26 (c) If the investigation required by this section reveals a current  
27 civil protective or restraining order or a protective or restraining  
28 order issued by another criminal court and involving the same or  
29 related parties, and if a protective or restraining order is issued in  
30 the current criminal proceeding, the district attorney or prosecuting  
31 city attorney shall send relevant information regarding the contents  
32 of the order issued in the current criminal proceeding, and any  
33 information regarding a conviction of the defendant, to the other  
34 court immediately after the order has been issued. When requested,  
35 the information described in this subdivision may be sent to the  
36 appropriate family, juvenile, or civil court. When requested, and  
37 upon a showing of a compelling need, the information described  
38 in this section may be sent to a court in another state.

39 SEC. 11. Section 290.012 of the Penal Code is amended to  
40 read:

1 290.012. (a) Beginning on his or her first birthday following  
2 registration or change of address, the person shall be required to  
3 register annually, within five working days of his or her birthday,  
4 to update his or her registration with the entities described in  
5 subdivision (b) of Section 290. At the annual update, the person  
6 shall provide current information as required on the Department  
7 of Justice annual update form, including the information described  
8 in paragraphs (1) to (5), inclusive of subdivision (a) of Section  
9 290.015. The registering agency shall give the registrant a copy  
10 of the registration requirements from the Department of Justice  
11 form.

12 (b) In addition, every person who has ever been adjudicated a  
13 sexually violent predator, as defined in Section 6600 of the Welfare  
14 and Institutions Code, shall, after his or her release from custody,  
15 verify his or her address no less than once every 90 days and place  
16 of employment, including the name and address of the employer,  
17 in a manner established by the Department of Justice. Every person  
18 who, as a sexually violent predator, is required to verify his or her  
19 registration every 90 days, shall be notified wherever he or she  
20 next registers of his or her increased registration obligations. This  
21 notice shall be provided in writing by the registering agency or  
22 agencies. Failure to receive this notice shall be a defense to the  
23 penalties prescribed in subdivision (f) of Section 290.018.

24 (c) In addition, every person subject to the Act, while living as  
25 a transient in California, shall update his or her registration at least  
26 every 30 days, in accordance with Section 290.011.

27 (d) No entity shall require a person to pay a fee to register or  
28 update his or her registration pursuant to this section. The  
29 registering agency shall submit registrations, including annual  
30 updates or changes of address, directly into the Department of  
31 Justice California Sex and Arson Registry (CSAR).

32 SEC. 12. Section 311.11 of the Penal Code is amended to read:

33 311.11. (a) Every person who knowingly possesses or controls  
34 any matter, representation of information, data, or image, including,  
35 but not limited to, any film, filmstrip, photograph, negative, slide,  
36 photocopy, videotape, video laser disc, computer hardware,  
37 computer software, computer floppy disc, data storage media,  
38 CD-ROM, or computer-generated equipment or any other  
39 computer-generated image that contains or incorporates in any  
40 manner, any film or filmstrip, the production of which involves

1 the use of a person under 18 years of age, knowing that the matter  
2 depicts a person under 18 years of age personally engaging in or  
3 simulating sexual conduct, as defined in subdivision (d) of Section  
4 311.4, is guilty of a felony and shall be punished by imprisonment  
5 in the state prison, or a county jail for up to one year, or by a fine  
6 not exceeding two thousand five hundred dollars (\$2,500), or by  
7 both the fine and imprisonment.

8 (b) Every person who commits a violation of subdivision (a),  
9 and who has been previously convicted of a violation of this  
10 section, an offense requiring registration under the Sex Offender  
11 Registration Act, or an attempt to commit any of the  
12 above-mentioned offenses, is guilty of a felony and shall be  
13 punished by imprisonment in the state prison for two, four, or six  
14 years.

15 (c) Each person who commits a violation of subdivision (a)  
16 shall be punished by imprisonment in the state prison for 16  
17 months, or two or five years, or shall be punished by imprisonment  
18 in a county jail for up to one year, or by a fine not exceeding two  
19 thousand five hundred dollars (\$2,500), or by both the fine and  
20 imprisonment, if one of the following factors exists:

21 (1) The matter contains more than 600 images that violate  
22 subdivision (a), and the matter contains 10 or more images  
23 involving a prepubescent minor or a minor who has not attained  
24 12 years of age.

25 (2) The matter portrays sexual sadism or sexual masochism  
26 involving a person under 18 years of age. For purposes of this  
27 section, “sexual sadism” means the intentional infliction of pain  
28 for purposes of sexual gratification or stimulation. For purposes  
29 of this section, “sexual masochism” means intentionally  
30 experiencing pain for purposes of sexual gratification or  
31 stimulation.

32 (d) It is not necessary to prove that the matter is obscene in order  
33 to establish a violation of this section.

34 (e) This section does not apply to drawings, figurines, statues,  
35 or any film rated by the Motion Picture Association of America,  
36 nor does it apply to live or recorded telephone messages when  
37 transmitted, disseminated, or distributed as part of a commercial  
38 transaction.

39 (f) For purposes of determining the number of images under  
40 paragraph (1) of subdivision (c), the following shall apply:

(1) Each photograph, picture, computer or computer-generated image, or any similar visual depiction shall be considered to be one image.

(2) Each video, video-clip, movie, or similar visual depiction shall be considered to have 50 images.

SEC. 13. Section 814 of the Penal Code is amended to read:

814. A warrant of arrest issued under Section 813 may be in substantially the following form:

County of \_\_\_\_\_

The people of the State of California to any peace officer of said State:

Complaint on oath having this day been laid before me that the crime of \_\_\_\_\_ (designating it generally) has been committed and accusing \_\_\_\_\_ (naming defendant) thereof, you are therefore commanded forthwith to arrest the above named defendant and bring him before me at \_\_\_\_\_ (naming the place), or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at \_\_\_\_\_ (place) this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_.

\_\_\_\_\_  
(Signature and full official title of magistrate.)

SEC. 14. Section 4902 of the Penal Code is amended to read:

4902. (a) If the provisions of Section 851.865 or 1485.55 apply in any claim, the California Victim Compensation and Government Claims Board shall, within 30 days of the presentation of the claim, calculate the compensation for the claimant pursuant to Section 4904 and recommend to the Legislature payment of that sum. As to any claim to which Section 851.865 or 1485.55 does not apply, the Attorney General shall respond to the claim within 60 days or request an extension of time, upon a showing of good cause.

(b) Upon receipt of a response from the Attorney General, the board shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the time fixed for the hearing. The board shall use reasonable diligence in setting the date for the

1 hearing and shall attempt to set the date for the hearing at the  
2 earliest date convenient for the parties and the board.

3 (c) If the time period for response elapses without a request for  
4 extension or a response from the Attorney General pursuant to  
5 subdivision (a), the board shall fix a time and place for the hearing  
6 of the claim, mail notice thereof to the claimant at least 15 days  
7 prior to the time fixed for the hearing, and make a recommendation  
8 based on the claimant's verified claim and any evidence presented  
9 by him or her.

10 SEC. 15. Section 11102.2 of the Penal Code is amended to  
11 read:

12 11102.2. (a) (1) As used in this section, "custodian of records"  
13 means the individual designated by an agency as responsible for  
14 the security, storage, dissemination, and destruction of the criminal  
15 records furnished to the agency and who serves as the primary  
16 contact for the Department of Justice for any related issues.

17 (2) As used in this section, "agency" means any public or private  
18 entity that receives criminal history information from the  
19 Department of Justice.

20 (3) As used in this section, "department" means the Department  
21 of Justice.

22 (b) Commencing January 1, 2011, the department shall establish,  
23 implement, and maintain a confirmation program to process  
24 fingerprint-based criminal record background clearances on  
25 individuals designated by agencies as custodians of records.  
26 Commencing July 1, 2011, no person shall serve as an agency  
27 custodian of records unless confirmed by the department. Criminal  
28 justice agency personnel who have undergone a state and federal  
29 criminal record background check are exempt from the  
30 requirements of this section. The department shall charge a fee of  
31 thirty dollars (\$30) to cover the costs of the confirmation program  
32 in addition to a fee sufficient to cover the cost of processing the  
33 appropriate state and federal level criminal record background  
34 check.

35 (c) Every agency must designate at least one custodian of  
36 records.

37 (1) The agency shall submit to the department the fingerprint  
38 images and related information of the individual or individuals  
39 designated by the agency to serve as the custodian or custodians  
40 of records, along with the appropriate fees and documentation.

1 The department shall retain one copy of the fingerprint impressions  
2 to process a state level criminal record background check, and it  
3 shall submit one copy of the fingerprint impressions of each  
4 individual to the Federal Bureau of Investigation to process a  
5 federal level criminal record background check.

6 (2) The department shall retain the fingerprint impressions for  
7 subsequent arrest notification pursuant to Section 11105.2.

8 (d) Every individual confirmed as a custodian of records shall  
9 be at least 18 years of age and shall have completed and submitted  
10 a written application prescribed by the department.

11 (e) Prior to confirming an individual as a custodian of records,  
12 the department shall determine that the applicant possesses the  
13 required honesty, credibility, truthfulness, and integrity to fulfill  
14 the responsibilities of the position.

15 (f) The department shall not confirm any individual who has  
16 been convicted of a felony offense or any other offense that  
17 involves moral turpitude, dishonesty, or fraud, or that impacts the  
18 applicant's ability to perform the duties or responsibilities of a  
19 custodian of records. The confirmation shall be revoked if, at any  
20 time, the individual is convicted of either a felony offense, or any  
21 other offense that involves moral turpitude, dishonesty, or fraud,  
22 or that impacts the applicant's ability to perform the duties or  
23 responsibilities of a custodian of records.

24 (g) In addition to subdivision (f), the department may refuse to  
25 confirm any individual as a custodian of records or revoke or  
26 suspend the confirmation of any custodian of records if the  
27 individual has done any of the following:

28 (1) Made a substantial and material misstatement or omission  
29 in the application submitted to the department.

30 (2) Been convicted of an offense of a nature incompatible with  
31 the duties of a custodian of records. A conviction after a plea of  
32 nolo contendere is deemed to be a conviction within the meaning  
33 of this subdivision.

34 (3) Failed to discharge fully and faithfully any of the duties or  
35 responsibilities required of a custodian of records.

36 (4) Been adjudged liable for damages in any suit grounded in  
37 fraud, misrepresentation, or in violation of the state regulatory  
38 laws, or in any suit based upon a failure to discharge fully and  
39 faithfully the duties of a custodian of records.

40 (5) Committed any act involving dishonesty, fraud, or deceit.



1 (6) Failed to submit any remittance payable upon demand by  
2 the department under this section or failed to satisfy any court  
3 ordered money judgment, including restitution.

4 (h) The agency shall immediately notify the department when  
5 the designated custodian of records no longer serves in that  
6 capacity.

7 SEC. 16. Section 31000 of the Penal Code is amended to read:

8 31000. (a) Any person who lawfully acquired an assault  
9 weapon before June 1, 1989, or a .50 BMG rifle before January  
10 1, 2005, and wishes to use it in a manner different than specified  
11 in Section 30945 shall first obtain a permit from the Department  
12 of Justice in the same manner as specified in Article 3  
13 (commencing with Section 32650) of Chapter 6.

14 (b) Any person who lawfully acquired an assault weapon  
15 between June 1, 1989, and January 1, 1990, and wishes to keep it  
16 after January 1, 1990, shall first obtain a permit from the  
17 Department of Justice in the same manner as specified in Article  
18 3 (commencing with Section 32650) of Chapter 6.

19 (c) Any person who wishes to acquire an assault weapon after  
20 January 1, 1990, or a .50 BMG rifle after January 1, 2005, shall  
21 first obtain a permit from the Department of Justice in the same  
22 manner as specified in Article 3 (commencing with Section 32650)  
23 of Chapter 6.

24 (d) On and after January 1, 2014, no partnership, corporation,  
25 limited liability company, association, or any other group or entity,  
26 regardless of how the entity was created, may be issued a permit  
27 to possess an assault weapon or a .50 BMG rifle.

28 SEC. 17. *Section 213.5 of the Welfare and Institutions Code*  
29 *is amended to read:*

30 213.5. (a) After a petition has been filed pursuant to Section  
31 311 to declare a child a dependent child of the juvenile court, and  
32 until the time that the petition is dismissed or dependency is  
33 terminated, upon application in the manner provided by Section  
34 527 of the Code of Civil Procedure or in the manner provided by  
35 Section 6300 of the Family Code, if related to domestic violence,  
36 the juvenile court has exclusive jurisdiction to issue ex parte orders

37 (1) enjoining any person from molesting, attacking, striking,  
38 stalking, threatening, sexually assaulting, battering, harassing,  
39 telephoning, including, but not limited to, making annoying  
40 telephone calls as described in Section 653m of the Penal Code,

1 destroying the personal property, contacting, either directly or  
2 indirectly, by mail or otherwise, coming within a specified distance  
3 of, or disturbing the peace of the child or any other child in the  
4 household; and (2) excluding any person from the dwelling of the  
5 person who has care, custody, and control of the child. A court  
6 may also issue an ex parte order enjoining any person from  
7 molesting, attacking, striking, stalking, threatening, sexually  
8 assaulting, battering, harassing, telephoning, including, but not  
9 limited to, making annoying telephone calls as described in Section  
10 ~~635m~~ 653m of the Penal Code, destroying the personal property,  
11 contacting, either directly or indirectly, by mail or otherwise,  
12 coming within a specified distance of, or disturbing the peace of  
13 any parent, legal guardian, or current caretaker of the child,  
14 regardless of whether the child resides with that parent, legal  
15 guardian, or current caretaker, upon application in the manner  
16 provided by Section 527 of the Code of Civil Procedure or, if  
17 related to domestic violence, in the manner provided by Section  
18 6300 of the Family Code. A court may also issue an ex parte order  
19 enjoining any person from molesting, attacking, striking, stalking,  
20 threatening, sexually assaulting, battering, harassing, telephoning,  
21 including, but not limited to, making annoying telephone calls as  
22 described in Section ~~635m~~ 653m of the Penal Code, destroying  
23 the personal property, contacting, either directly or indirectly, by  
24 mail or otherwise, coming within a specified distance of, or  
25 disturbing the peace of the child's current or former social worker  
26 or court appointed special advocate, upon application in the manner  
27 provided by Section 527 of the Code of Civil Procedure.

28 (b) After a petition has been filed pursuant to Section 601 or  
29 602 to declare a child a ward of the juvenile court, and until the  
30 time that the petition is dismissed or wardship is terminated, upon  
31 application in the manner provided by Section 527 of the Code of  
32 Civil Procedure or, if related to domestic violence, in the manner  
33 provided by Section 6300 of the Family Code, the juvenile court  
34 may issue ex parte orders (1) enjoining any person from molesting,  
35 attacking, striking, stalking, threatening, sexually assaulting,  
36 battering, harassing, telephoning, including, but not limited to,  
37 making annoying telephone calls as described in Section 653m of  
38 the Penal Code, destroying the personal property, contacting, either  
39 directly or indirectly, by mail or otherwise, coming within a  
40 specified distance of, or disturbing the peace of the child or any

1 other child in the household; (2) excluding any person from the  
2 dwelling of the person who has care, custody, and control of the  
3 child; or (3) enjoining the child from contacting, threatening,  
4 stalking, or disturbing the peace of any person the court finds to  
5 be at risk from the conduct of the child, or with whom association  
6 would be detrimental to the child. A court may also issue an ex  
7 parte order enjoining any person from molesting, attacking,  
8 striking, stalking, threatening, sexually assaulting, battering,  
9 harassing, telephoning, including, but not limited to, making  
10 annoying telephone calls as described in Section ~~635m~~ *653m* of  
11 the Penal Code, destroying the personal property, contacting, either  
12 directly or indirectly, by mail or otherwise, coming within a  
13 specified distance of, or disturbing the peace of any parent, legal  
14 guardian, or current caretaker of the child, regardless of whether  
15 the child resides with that parent, legal guardian, or current  
16 caretaker, upon application in the manner provided by Section 527  
17 of the Code of Civil Procedure or, if related to domestic violence,  
18 in the manner provided by Section 6300 of the Family Code. A  
19 court may also issue an ex parte order enjoining any person from  
20 molesting, attacking, striking, stalking, threatening, sexually  
21 assaulting, battering, harassing, telephoning, including, but not  
22 limited to, making annoying telephone calls as described in Section  
23 ~~635m~~ *653m* of the Penal Code, destroying the personal property,  
24 contacting, either directly or indirectly, by mail or otherwise,  
25 coming within a specified distance of, or disturbing the peace of  
26 the child's current or former probation officer or court appointed  
27 special advocate, upon application in the manner provided by  
28 Section 527 of the Code of Civil Procedure.

29 (c) If a temporary restraining order is granted without notice,  
30 the matter shall be made returnable on an order requiring cause to  
31 be shown why the order should not be granted, on the earliest day  
32 that the business of the court will permit, but not later than 21 days  
33 or, if good cause appears to the court, 25 days from the date the  
34 temporary restraining order is granted. The court may, on the  
35 motion of the person seeking the restraining order, or on its own  
36 motion, shorten the time for service of the order to show cause on  
37 the person to be restrained. The court may, upon its own motion  
38 or the filing of a declaration by the person seeking the restraining  
39 order, find that the person to be restrained could not be served  
40 within the time required by law and reissue an order previously

1 issued and dissolved by the court for failure to serve the person to  
2 be restrained. The reissued order shall remain in effect until the  
3 date set for the hearing. The reissued order shall state on its face  
4 the date of expiration of the order. Any hearing pursuant to this  
5 section may be held simultaneously with any regularly scheduled  
6 hearings held in proceedings to declare a child a dependent child  
7 or ward of the juvenile court pursuant to Section 300, 601, or 602,  
8 or subsequent hearings regarding the dependent child or ward.

9 (d) (1) The juvenile court may issue, upon notice and a hearing,  
10 any of the orders set forth in subdivisions (a), (b), and (c). Any  
11 restraining order granted pursuant to this subdivision shall remain  
12 in effect, in the discretion of the court, no more than three years,  
13 unless otherwise terminated by the court, extended by mutual  
14 consent of all parties to the restraining order, or extended by further  
15 order of the court on the motion of any party to the restraining  
16 order.

17 (2) If an action is filed for the purpose of terminating or  
18 modifying a protective order prior to the expiration date specified  
19 in the order by a party other than the protected party, the party  
20 who is protected by the order shall be given notice, pursuant to  
21 subdivision (b) of Section 1005 of the Code of Civil Procedure,  
22 of the proceeding by personal service or, if the protected party has  
23 satisfied the requirements of Chapter 3.1 (commencing with  
24 Section 6205) of Division 7 of Title 1 of the Government Code,  
25 by service on the Secretary of State. If the party who is protected  
26 by the order cannot be notified prior to the hearing for modification  
27 or termination of the protective order, the juvenile court shall deny  
28 the motion to modify or terminate the order without prejudice or  
29 continue the hearing until the party who is protected can be  
30 properly noticed and may, upon a showing of good cause, specify  
31 another method for service of process that is reasonably designed  
32 to afford actual notice to the protected party. The protected party  
33 may waive his or her right to notice if he or she is physically  
34 present and does not challenge the sufficiency of the notice.

35 (e) (1) The juvenile court may issue an order made pursuant to  
36 subdivision (a), (b), or (d) excluding a person from a residence or  
37 dwelling. This order may be issued for the time and on the  
38 conditions that the court determines, regardless of which party  
39 holds legal or equitable title or is the lessee of the residence or  
40 dwelling.

1 (2) The court may issue an order under paragraph (1) only on  
2 a showing of all of the following:

3 (A) Facts sufficient for the court to ascertain that the party who  
4 will stay in the dwelling has a right under color of law to possession  
5 of the premises.

6 (B) That the party to be excluded has assaulted or threatens to  
7 assault the other party or any other person under the care, custody,  
8 and control of the other party, or any minor child of the parties or  
9 of the other party.

10 (C) That physical or emotional harm would otherwise result to  
11 the other party, to any person under the care, custody, and control  
12 of the other party, or to any minor child of the parties or of the  
13 other party.

14 (f) Any order issued pursuant to subdivision (a), (b), (c), or (d)  
15 shall state on its face the date of expiration of the order.

16 (g) All data with respect to a juvenile court protective order, or  
17 extension, modification, or termination thereof, granted pursuant  
18 to subdivision (a), (b), (c), or (d), shall be transmitted by the court  
19 or its designee, within one business day, to law enforcement  
20 personnel by either one of the following methods:

21 (1) Transmitting a physical copy of the order to a local law  
22 enforcement agency authorized by the Department of Justice to  
23 enter orders into the California Law Enforcement  
24 Telecommunications System (CLETS).

25 (2) With the approval of the Department of Justice, entering the  
26 order into CLETS directly.

27 (h) Any willful and knowing violation of any order granted  
28 pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor  
29 punishable under Section 273.65 of the Penal Code.

30 (i) A juvenile court restraining order related to domestic violence  
31 issued by a court pursuant to this section shall be issued on forms  
32 adopted by the Judicial Council of California and that have been  
33 approved by the Department of Justice pursuant to subdivision (i)  
34 of Section 6380 of the Family Code. However, the fact that an  
35 order issued by a court pursuant to this section was not issued on  
36 forms adopted by the Judicial Council and approved by the  
37 Department of Justice shall not, in and of itself, make the order  
38 unenforceable.

(j) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(k) Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

~~SEC. 17.~~

*SEC. 18.* Section 602 of the Welfare and Institutions Code is amended to read:

602. (a) Except as provided in subdivision (b), any person who is under 18 years of age when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance

1 establishing a curfew based solely on age, is within the jurisdiction  
2 of the juvenile court, which may adjudge such person to be a ward  
3 of the court.

4 (b) Any person who is alleged, when he or she was 14 years of  
5 age or older, to have committed one of the following offenses shall  
6 be prosecuted under the general law in a court of criminal  
7 jurisdiction:

8 (1) Murder, as described in Section 187 of the Penal Code, if  
9 one of the circumstances enumerated in subdivision (a) of Section  
10 190.2 of the Penal Code is alleged by the prosecutor, and the  
11 prosecutor alleges that the minor personally killed the victim.

12 (2) The following sex offenses, if the prosecutor alleges that  
13 the minor personally committed the offense, and if the prosecutor  
14 alleges one of the circumstances enumerated in the One Strike  
15 law, subdivision (d) or (e) of Section 667.61 of the Penal Code,  
16 applies:

17 (A) Rape, as described in paragraph (2) of subdivision (a) of  
18 Section 261 of the Penal Code.

19 (B) Spousal rape, as described in paragraph (1) of subdivision  
20 (a) of Section 262 of the Penal Code.

21 (C) Forcible sex offenses in concert with another, as described  
22 in Section 264.1 of the Penal Code.

23 (D) Forcible lewd and lascivious acts on a child under 14 years  
24 of age, as described in subdivision (b) of Section 288 of the Penal  
25 Code.

26 (E) Forcible sexual penetration, as described in subdivision (a)  
27 of Section 289 of the Penal Code.

28 (F) Sodomy or oral copulation in violation of Section 286 or  
29 288a of the Penal Code, by force, violence, duress, menace, or fear  
30 of immediate and unlawful bodily injury on the victim or another  
31 person.

32 (G) Lewd and lascivious acts on a child under 14 years of age,  
33 as defined in subdivision (a) of Section 288, unless the defendant  
34 qualifies for probation under subdivision (d) of Section 1203.066  
35 of the Penal Code.

36 *SEC. 19. Section 1401 of the Welfare and Institutions Code is*  
37 *amended to read:*

1      1401. The compact administrator shall be the ~~executive director~~  
2      ~~of the Corrections Standards Authority~~ *Secretary of the Department*  
3      *of Corrections and Rehabilitation, or his or her designee.*

O